

ASSEMBLY BILL

No. 1865

Introduced by Assembly Member Alejo

February 22, 2012

An act to amend Section 1161.2 of the Code of Civil Procedure, relating to eviction.

LEGISLATIVE COUNSEL'S DIGEST

AB 1865, as introduced, Alejo. Residential tenancies: eviction: notices.

Existing law governs unlawful detainer proceedings. Existing law requires the clerk to mail a specified notice upon the filing of an unlawful detainer action to each defendant named in the action and requires the notice to contain the name and telephone number of the county bar association as well as other legal services organizations that provide service to low-income persons.

This bill would require that the notice described above contain, as an alternative to the county bar association, the name and telephone number of any nonprofit bar association within the county that is duly authorized by the State Bar as a lawyer referral provider.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1161.2 of the Code of Civil Procedure
2 is amended to read:

1 1161.2. (a) The clerk may allow access to limited civil case
2 records filed under this chapter, including the court file, index,
3 and register of actions, only as follows:

4 (1) To a party to the action, including a party's attorney.

5 (2) To any person who provides the clerk with the names of at
6 least one plaintiff and one defendant and the address of the
7 premises, including the apartment or unit number, if any.

8 (3) To a resident of the premises who provides the clerk with
9 the name of one of the parties or the case number and shows proof
10 of residency.

11 (4) To any person by order of the court, which may be granted
12 ex parte, on a showing of good cause.

13 (5) Except as provided in paragraph (6), to any other person 60
14 days after the complaint has been filed, unless a defendant prevails
15 in the action within 60 days of the filing of the complaint, in which
16 case the clerk may not allow access to any court records in the
17 action, except as provided in paragraphs (1) to (4), inclusive.

18 (6) In the case of a complaint involving residential property
19 based on Section 1161a as indicated in the caption of the complaint,
20 as required in subdivision (c) of Section 1166, to any other person,
21 if 60 days have elapsed since the complaint was filed with the
22 court, and, as of that date, judgment against all defendants has
23 been entered for the plaintiff, after a trial. If judgment is not entered
24 under the conditions described in this paragraph, the clerk shall
25 not allow access to any court records in the action, except as
26 provided in paragraphs (1) to (4), inclusive.

27 (b) For purposes of this section, "good cause" includes, but is
28 not limited to, the gathering of newsworthy facts by a person
29 described in Section 1070 of the Evidence Code. It is the intent of
30 the Legislature that a simple procedure be established to request
31 the ex parte order described in subdivision (a).

32 (c) Upon the filing of any case so restricted, the court clerk shall
33 mail notice to each defendant named in the action. The notice shall
34 be mailed to the address provided in the complaint. The notice
35 shall contain a statement that an unlawful detainer complaint
36 (eviction action) has been filed naming that party as a defendant,
37 and that access to the court file will be delayed for 60 days except
38 to a party, an attorney for one of the parties, or any other person
39 who (1) provides to the clerk the names of at least one plaintiff
40 and one defendant in the action and provides to the clerk the

1 address, including any applicable apartment, unit, or space number,
2 of the subject premises, or (2) provides to the clerk the name of
3 one of the parties in the action or the case number and can establish
4 through proper identification that he or she lives at the subject
5 premises. The notice shall also contain a statement that access to
6 the court index, register of actions, or other records is not permitted
7 until 60 days after the complaint is filed, except pursuant to an
8 order upon a showing of good cause therefor. The notice shall
9 contain on its face the name and telephone number of the county
10 bar association~~and~~ *or any nonprofit bar association within the*
11 *county that is duly authorized by the State Bar as a lawyer referral*
12 *provider. The notice shall also contain on its face* the name and
13 telephone number of an office or offices funded by the federal
14 Legal Services Corporation or qualified legal services projects that
15 receive funds distributed pursuant to Section 6216 of the Business
16 and Professions Code; that provide legal services to low-income
17 persons in the county in which the action is filed. The notice shall
18 state that these numbers may be called for legal advice regarding
19 the case. The notice shall be issued between 24 and 48 hours of
20 the filing of the complaint, excluding weekends and holidays. One
21 copy of the notice shall be addressed to “all occupants” and mailed
22 separately to the subject premises. The notice shall not constitute
23 service of the summons and complaint.

24 (d) Notwithstanding any other provision of law, the court shall
25 charge an additional fee of fifteen dollars (\$15) for filing a first
26 appearance by the plaintiff. This fee shall be added to the uniform
27 filing fee for actions filed under this chapter.

28 (e) This section does not apply to a case that seeks to terminate
29 a mobilehome park tenancy if the statement of the character of the
30 proceeding in the caption of the complaint clearly indicates that
31 the complaint seeks termination of a mobilehome park tenancy.